

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CLERK'S MINUTES

FILED
JUN 5 4:47 PM
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

CASE NO. 8:03-cr-77-T-30TBM DATE: June 5, 2003

HONORABLE James S. Moody, Jr. INTERPRETER N/A
LANGUAGE _____

UNITED STATES OF AMERICA
v.

Terry Zitek, Walter Furr
Government Counsel

Sami Amin Al-Arian
Sameeh Hammoudeh
Ghassen Zayed Ballut
Hatim Naji Fariz (present)

Jeffrey Brown, Frank Louderback
Daniel Hernandez
Bruce Howie
Donald Horrox, Fletcher Peacock,
Allison Guagliardo
Defense Counsel

Defendant(s)

COURT REPORTER Claudia Spangler-Fry DEPUTY CLERK Sara Boswell

TIME 9:30 - 10:15 a.m. TOTAL 1.0 Courtroom 13 A

PROCEEDINGS: STATUS CONFERENCE

Deft. Al-Arian's counsel motioned the court prior to the hearing requesting the defendant be transported to Tampa to attend the status conference. Court denied that motion but set up a video teleconference connection for Deft. Al-Arian. Defendant refused to leave his prison cell and did not attend the hearing by video teleconference.

Mr. Louderback on behalf of Deft. Al-Arian opposes the calculation for speedy trial made by the Government and indicates speedy trial would run on June 12, 2003. No case law cited to support the argument. Defense is relying on the Constitution.

Court hears arguments from Don Horrox on Deft. Fariz's motions for severance and continuance of trial. Mr. Horrox states that because of the 50 count indictment, voluminous discovery, multiple wiretaps obtained by the Foreign Intelligence Services Act (FISA), coordination and attaining a team of interpreters, and the process of submission of a proposed budget to the Administrative Office, a continuance of trial for a period of at least 18 months would be necessary. Defendants Ballut and Hammoudeh move to join in that motion. The Court GRANTS the motion for continuance under 18 U.S.C. §3161(h)(8)(B)(iv) and 3161 (b)(ii). The court will continue the trial to allow effective representation as set forth in the motion. The Court finds that this is a complex case

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charging multiple defendants and a fact intensive prosecution with novel issues of law to be argued. Additionally, there are approximately 21,000 hours of recorded conversations in 2 to 3 different languages that will need to be interpreted. Court finds that the ends of justice require the continuance of trial. Court anticipates trial beginning in the first part of January, 2005. A written order will be issued.

Mr. Hernandez has filed an amended motion for co-counsel to be appointed for Deft. Hammoudeh. Court has referred that motion to Magistrate Judge McCoun. Judge McCoun is handling the discovery issues in the case and can make a better determination in evaluating the need for additional counsel.

Mr. Howie on behalf of Deft. Ballut filed a motion requesting an additional 120 days to file motions attacking the indictment. Defts. Hammoudeh and Fariz join in on the motion. Magistrate Judge McCoun issued a 2nd Amended Pretrial Discovery Order on 6/4/03 giving the parties an additional 60 days to file those motions. Court denies the 180 day extension. The 60 day deadline will remain in place.

Government states that all conversations in the indictment have been de-classified along with numerous other conversations. Government is attempting to de-classify as much material as possible but cannot guarantee total de-classification.

Court inquires if all defense counsel have requested the security clearance applications. Mr. Horrox, Ms. Guagliardo and an investigator for the Public Defender's Office anticipates completing their applications soon. Mr. Howie has requested the forms but may want to attack the issue of using classified information in trial. Mr. Hernandez will be completing his application. Mr. Brown and Mr. Louderback object to participating in the security clearance and will request a hearing on the issues of (1) who determines the classification of the materials and (2) why are the conversations of the defendants classified. Additionally, Mr. Brown and Mr. Louderback do not want to waive their privacy and feel it is inappropriate for counsel to view classified materials but not their client.

Court orally orders that all defense counsel submit their security clearances within 30 days.

Court inquires about comprising a questionnaire for the potential jurors in this case. Since the trial is anticipated to take several months, a large number of prospective jurors will be summonsed. **Court orders counsel to submit proposed questions for the prospective jurors within 60 days.** Court will schedule a hearing to draft the questionnaire.

Government will be filing a CIPA (Classified Information Protection Act) motion for protective order.

Fletcher Peacock on behalf of the Public Defender's Office states that his office is coordinating a centralized group of interpreters and typists that would be available to all defense counsel. Funding for this activity requires approval from the circuit. A budget proposal is also being sent to the Administrative Office.